

delay to Applicants in having to protect the additional subject matter recited by the Group II claims by filing a divisional application.

MPEP §803 sets forth the criteria for restriction between patentably distinct inventions. (P) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)-§806.04(i), §808.01(a) and §808.02). The Examiner has not set forth criteria establishing that there would be a serious burden if restriction is required.

In item 2 of the Election/Restriction Requirement, the Examiner states "on the contrary, recording medium such as claimed in Group II can be used as a multi-layers recording medium where different formats of recording standard can not be mixed in a single recording layer." It is to be noted that none of the claims recite the different formats of recording standard cannot be mixed in a single recording layer.

III. Conclusion

Upon review of references involved in this field of technology, when considering that the method recited by the Group II claims is directed to a hybrid type recording medium having two recording layers, and elected claims 1-24, 35-37, and 41-94 are directed to a recording medium with various data recording regions, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

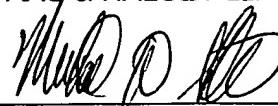
If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,
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Date: 3/4/03

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